

**REMARKS**

Claims 1-14 are pending in the application.

Claims 1, 4 and 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schroder et al. (6,273,492) (hereinafter Schroder) in view of Pruessel (6,456,027) (hereinafter Pruessel). The Examiner states that Schroder teaches a system comprising a pull down actuator (4), a position transducer (5, 6, 13), controller (7) (Fig.2), and a car upon which pull down actuator (4) and top (1) may be mounted. The Examiner admits that Schroder fails to explicitly teach a force transducer. For this, the Examiner looks to Pruessel. Finally, the Examiner concludes that, "It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Schroder to include a force transducer as taught by Pruessel in order to detect the closing force limit for the purpose of distinguishing between disruptive influences on the closing device."

Applicants respectfully traverse this rejection and request that each of Claims 1, 4 and 5 be reconsidered in view of these remarks and passed to issue over the Examiner's rejection. As set forth in response to the Examiner's earlier rejection, the term "pull down actuator", as used in Applicants' specification, drawings, and claims, means a testing device for cycling a convertible top so as to measure the operating force required to remove the top. However, Schroder does not teach the use of a pull down actuator. Schroder has a linked top frame and the fact is Schroder's link bar 4 does not serve to pull down anything because Schroder's linkage 4 is not, in of itself, powered in any manner. Rather, Schroder's link 4 is merely pushed by the remaining linkage and hydraulic cylinder (2). The Examiner's use of the Applicants' term "pull down actuator" to describe Schroder's device is clearly in error. Moreover, although Pruessel does teach the use of a force transducer, neither Schroder, nor Pruessel, whether taken singly, or in combination with each other, either teach or suggest a combination of a pull down actuator for moving a convertible top from an open position to a closed position, a position transducer, a force transducer, and a controller for recording the measured travel and force exerted by the pull down actuator. As a result, it is clear that the Examiner cannot base a valid rejection upon the combined teachings of Schroder and Pruessel and each of Claims 1, 4 and 5 should be passed to issue over the Examiner's rejection.

Claims 2, 3, and 6-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schroder in view of Pruessel and further in view of Dilluvio et al (5,755,467) (hereinafter Dilluvio).

The Examiner states that with respect to Claims 2, 3, 6-10, 12, and 13, Schroder in view of Pruessel teaches a system for measuring the amount of force required to operate a

convertible top but lacks the teaching of a gripper and flexible member attached to the gripper. For this, the Examiner looks to Dilluvio (171) (Fig. 3). The Examiner argues that it would have been obvious to one of ordinary skill in the art to modify Schroder in view of Pruessel to include the limitations taught by Dilluvio. Applicants respectfully traverse this rejection and request that each of Claims 2, 3, 6-10, 12, and 13 be reconsidered in view of these remarks and passed to issue over the Examiner's rejection.

Schroder and Pruessel have been previously discussed in this response. Dilluvio, on the other hand, shows a convertible top latching system wherein the part (171) relied upon by the Examiner comprises only a handle for latching a top. Dilluvio has nothing to do with the claimed invention in this case because Dilluvio describes nothing regarding measuring both the travel of the top and the force exerted by a pull down actuator upon the top. As a result, neither Schroder, nor Pruessel, nor Dilluvio, whether taken singly, or in combination with each other, either teach or suggest Applicants' claimed invention as set forth in Claims 2, 3, 6-10, 12, and 13 and each of these claims should be passed to issue over the Examiner's rejection. Such action is earnestly solicited.

With respect to Claim 11, the Examiner asserts that Schroder teaches a system wherein the controller further comprises a data storage facility or memory. Applicants note that Schroder discusses measuring number of revolutions of an electric motor for a "movement of the folding top between two limit switches." This is stated as allowing compensation for "influences due to wearing of the hydraulic gear mechanism over time." To reiterate what was earlier said, Schroder teaches nothing regarding measuring the amount of force required to cycle an automotive convertible top and this is true with respect to Claim 11 as well because merely measuring motor revolutions is not what Applicants teach in their specification, or claim.

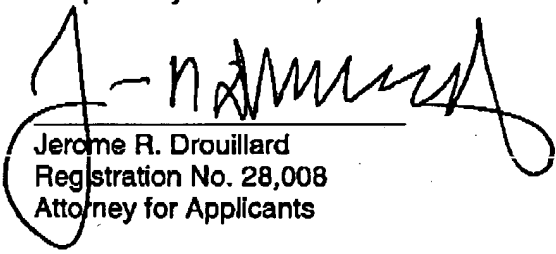
Claim 14 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Schroder in view of Pruessel and Dilluvio and further in view of Hacker (4,749,193) (hereinafter Hacker). The Examiner asserts that Schroder, Pruessel and Dilluvio teach a characteristic transducer operatively associated with a pull down actuator for measuring an operating parameter of a convertible top but lacks teaching the specific operating parameter is audible noise. The Examiner argues that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Schroder in view of Pruessel and Dilluvio to include the limitations taught by Hacker as another means for measuring the travel of the convertible top. Applicants respectfully traverse this rejection and request that Claim 14 be reconsidered in view of these remarks and passed to issue over the Examiner's rejection.

The Examiner's rejection based on Pruessel, Dilluvio, Schroder and Hacker can stand only if there is some reason to combine all four of these references; Applicants respectfully submit that there is no such reason.

Aside from the absence of any reason to combine the cited references, the Examiner's rejection is not sustainable if for no other reason that Hacker, in the cited passage, teaches an audible signal for telling a driver that the convertible top is in either its fully locked or fully opened position. Hacker teaches nothing about measuring audible noise of a convertible top. Further, neither Schroder, nor Pruessel, nor Dilluvio make any such teaching. As a result, Claim 14, too, is allowable over the Examiner's rejection and should be passed to issue. Such action is earnestly solicited.

Please charge any fees required in the filing of this amendment to Deposit Account 06-1510.

Respectfully submitted,

  
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